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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,155	12/23/2005	Johann Doppstadt	P70997US0	6582
136 7590 12/04/2007 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			EXAMINER RODRIGUEZ, JOSEPH C	
			ART UNIT 3653	PAPER NUMBER
			MAIL DATE 12/04/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/562,155

Applicant(s)

DOPPSTADT ET AL.

Examiner

Joseph C. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/4/06; 10/13/06</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to as lacking appropriate section headings as outlined in 37 CFR 1.77. See also 37 CFR 1.72-1.77; MPEP § 608.01(a). Correction is required.

### ***Claim Objections***

The claims are objected to as the form of claims 26-51 are improper. Where a claim sets forth a plurality of elements or steps, as in the instant claims, each element or step should be separated by a line indentation. See MPEP 608.01(m) and 37 CFR 1.75(i).

Claims 26 should read "A trommel screen machine".

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Examiner recommends that Applicant amend the claim language prior to U.S. examination in the future.

For example, the claim language "at least one collecting device, respectively transport device, for collecting, respectively transporting" (claim 1) is nonsensical and thus indefinite. Here, it is unclear what is meant by the claim language "respectively" throughout the claims (i.e., is the claim element modified by respectively a combination, optional, or otherwise). Examiner requests clarification and, in the interim, has interpreted the claims as set forth below.

Regarding claims 26, 30, 34, 35, 38, 39, 48, the phrases "in particular", "preferably by", and "for example" render these claims indefinite because it is unclear whether the limitations following the phrases are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claims 28, 33, 35, 38, 39, 41, 43, 44 and 47, the language "can be" may render the claims indefinite as it is unclear whether the features subsequent to the "can be" language are a necessary part of the claimed invention. Applicant must positively recite the features of the claimed invention. Examiner thus recommends eliminating all instances of "can be" from the claim language.

Regarding claim 32, the claim language "the disc screen is arranged at an angle (alpha) which is inclined seen in transport direction (A) of the screening good in the screening drum on the feeding hopper" is inconsistent with the specification (i.e., the screening drum is not taught as on the feeding hopper) and thus indefinite.

Regarding claims 40-49, 51, the phrase "-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by

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"-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claims 50 and 51 recite the limitation "the recycling plant". There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26-27, 29, 31, 32, 34-38 and 40-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Dube et al. ("Dube")(U.S. Publication 2002/0056668 with citations to US Patent 6,843,376).

Dube (Fig. 1-8) teaches a trommel screen machine, comprising  
at least one revolving screening drum (13),  
at least one drive (Fig. 2 showing common drive M for the screening drum and the disc screen),

a feeding hopper (45; col. 7),

at least one disc screen (col. 8 teaching disc screen 11 shown as "on" and adapted to the hopper 45 at an angle alpha in fig. 2 with fig. 4 showing replacement vibrator screen and fig. 5 showing at least two driven shafts with comb-like discs), and  
at least one collecting device and transport device (showing transport chute at end of

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screen and pivotal transport conveyor 51 in fig. 3). Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the device cited above is certainly capable of screening grains and oversize particles and having shafts that are exchangeable and with discs that *can be* varied.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28, 33, 39 and 42-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dube in view of Mclean (US 2,055,630), Davis (Us 6,318,560) and Paladin (US 6,986,425)

Dube as set forth above teaches all that is claimed except for expressly teaching that the disc or vibrating screen is capable of being folded or turned away and that at least one adjusting device is provided by means of which the angle (alpha) of the disc screen is adjustable, wherein the disc screen comprises various features, such as direct drive, polygon discs, exchangeable discs with clamps, discs with at least one exchangeable perimeter nap of different shapes. These features, however, are well-

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known in the disc screening arts. Here, it is noted that Dube already teaches the essence of Applicant's invention—the use of an initial disc screen prior to a drum screen, thus the replacement of the disc screen with other well known types of disc screens can merely be regarded as an obvious modification. For instance, Mclean teaches that an adjustable (i.e., turnable) disc with direct drive shafts is quite old in the art (Fig. 1-8), Davis teaches that disc screens with replaceable shafts with different shapes and spacing of discs is well known (Fig. 1-8; Abstract) and Paladin further teaches that adjustable disc screens with different shapes is well known (Fig. 1-15). Moreover, it would be obvious to one with ordinary skill in the art to modify the base reference with these prior art teachings to arrive at the claimed invention. The rationale for this obviousness determination can be found in the prior art itself as Dube expressly teaches the replacement of the respective screens with any other type of well-known screen (col. 8) as it is a well known in the screening arts to adjust the angle and type of screen based on the objects to be screened. Further, the modification to arrive at the claimed invention would merely involve the substitution/addition of well-known elements with no change in their respective functions (i.e., screen). Moreover, the use of prior art elements according to their functions is a predictable variation that would yield predictable results, and thus cannot be regarded as a non-obvious modification when the modification is already commonly implemented in the prior art. Further, the prior art discussed and cited demonstrates the level of sophistication of one with ordinary skill in the art and that these modifications would be well within this skill level. Therefore, it

would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Dube for the reasons set forth above.

### ***Conclusion***

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Joseph C Rodriguez** whose telephone number is **571-272-6942** (M-F, 9 am – 6 pm, EST). The Supervisory Examiner is Patrick Mackey, **571-272-6916**. The **Official** fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

The examiner's **UNOFFICIAL Personal fax number** is **571-273-6942**.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>

Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at **866-217-9197** (Toll Free).



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Signed by Examiner /Joseph Rodriguez/

Jcr

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November 29, 2007

A handwritten signature in black ink, appearing to be 'JR' or 'JCR' with a stylized flourish extending from the end.